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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re:

CASE 09-56729ASW

Richard Scott Chalgren and
Karen Lee Chalgren,

CHAPTER 13
**RESPONSE RE MOTION
RE RELIEF FROM STAY
AND REQUEST FOR
DISMISSAL, OR, IN THE
ALTERNATIVE, ADDITIONAL
BRIEFING**

Debtors.

Date: June 22, 2011
Time: 2:15 p.m.
Room: 3020

I.

INTRODUCTION

This case is not yet ripe for ultimate decision on a Motion for Relief from Stay for the following reasons:

1. **The loan modification request of the debtors is still pending and there is no decision from “Secured Creditors” as to the debtors’ request. The debtors are current with their adequate protection payments which are 31% of their gross monthly income. For this reason the best expedient is to take the matter off calendar subject to being restored upon 30 days’ notice.**

2. The Court’s attention is directed to the important, new decision of the Ninth Circuit Bankruptcy Appellate Panel published last week, *In re Veal*, ___BR___, 2011 WL

1 2304200 (June 10, 2011 Ninth Cir. BAP). As in that case, in the present case, there is
2 insufficient proof that has been submitted that the trustee of the securitized trust, in our
3 case, Deutsche Bank as Trustee, is the owner or holder of the note. The only document
4 presented which purports to prove that Deutsche Bank as Trustee is the owner and
5 holder of the note is the declaration by “cloned” Vice President Roger Kistler of AHMSI
6 (a title he shares with eleven (11) other V.P.’s for signing purposes only). That declaration
7 is hearsay and there is no indication upon what personal knowledge the declarant
8 makes the statements set forth in the declaration. The Reply by “Secured Creditors” does not
9 purport to argue that this declaration is not hearsay. **The Court should dismiss the**
10 **Motion for Relief from Stay since “Secured Creditors” have been given numerous**
11 **chances to prove standing and have not done so.**

12 3. If this Court is not inclined to dismiss the Motion—even though this
13 Court should do so- this court should continue this matter for further briefing with
14 regard to the effect of *In re Veal* on the case at hand. This is an important new decision
15 applicable to this case and more time is needed to fully digest this 46 page opinion.

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17 Dated: June 14, 2011

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20 /s/ Michael K. Mehr
21 Attorney for Debtors
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